

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA
ROOM 211
FEDERAL BUILDING AND U.S. POST OFFICE
225 SOUTH PIERRE STREET
PIERRE, SOUTH DAKOTA 57501-2463

IRVIN N. HOYT
BANKRUPTCY JUDGE

TELEPHONE (605) 224-0560
FAX (605) 224-9020

April 18, 2005

Forrest C. Allred, Esq.
Chapter 7 Trustee
14 Second Avenue SE, Suite B
Aberdeen, South Dakota 57401

Gregory P. Grajczyk, Esq.
Counsel for Debtors
Post Office Box 68
Milbank, South Dakota 57252

Subject: *In re David and Nancy A. Giere,*
Chapter 7, Bankr. No. 04-10297

✓ *In re Todd R. Schrupp and Jean M. Riedy,*
Chapter 7, Bankr. No. 04-10196

Dear Trustee and Counsel:

Please be sure you have communicated clearly to one another what you claim the value is of each vehicle at issue. I do not want the Court to travel to Aberdeen to find that the parties are only \$100 apart.

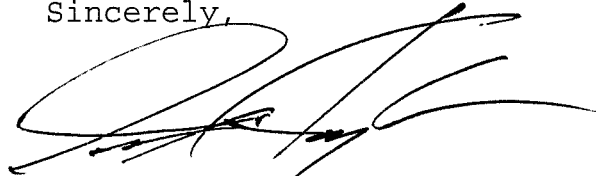
As to the bank accounts at issue in Schrupp-Riedy, the Court is satisfied that Debtors may be held accountable for the funds on deposit in their accounts on the petition date. *In re Danowski*, 320 B.R. 886 (Bankr. N.D. Ohio 2005); *In re Dybalski*, 316 B.R. 312 (Bankr. S.D. Ind. 2004); *In re Doughman*, 263 B.R. 905 (Bankr. D. Kan. 1999). That the creditors who cashed checks post-petition may also face an avoidance action under 11 U.S.C. § 549 does not affect Debtors' responsibility to the bankruptcy estate under 11 U.S.C. § 521(4).

The remaining issue is the ownership of the subject accounts. While 11 U.S.C. § 541 governs what is property of the bankruptcy estate, the Court must look to state law to define the particular property interests that a debtor may hold. *Butner v. U.S.*, 440 U.S. 49, 54-57 (1979). Accordingly, the Court will need from Debtors South Dakota statutory or case law to support their theory

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that the funds in the bank accounts belong to their children although the children's names are not on the accounts. Unless such law exists, there is no reason to take evidence on the nature of the deposits made into the account.

Sincerely,



Irvin N. Hoyt
Bankruptcy Judge

INH:sh

CC: case file (docket original; serve parties in interest)

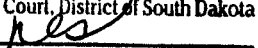
NOTICE OF ENTRY
Under F.R.Bankr.P. 9022(a)
Entered

APR 18 2005

Charles L. Nail, Jr., Clerk
U.S. Bankruptcy Court
District of South Dakota

I hereby certify that a copy of this document was electronically transmitted, mailed, hand delivered or faxed this date to the parties on the attached service list.

APR 18 2005

Charles L. Nail, Jr., Clerk
U.S. Bankruptcy Court, District of South Dakota
By 

Forrest C. Allred
14 Second Ave SE Ste B
Aberdeen, SD 57401

Bruce J. Gering
Office of the U.S. Trustee
230 S Phillips Ave, Suite 502
Sioux Falls, SD 57104-6321

Gregory P. Grajczyk
PO Box 68
Milbank, SD 57252

Jean M Riedy
708 S. 4th St.
Milbank, SD 57252

Cheryl Schrempp DuPris
Assistant U.S. Attorney
225 South Pierre Street #337
Pierre, SD 57501

Todd R Schrupp
708 S. 4th St.
Milbank, SD 57252